

1 AN ACT concerning abortions.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 2. The Medical Practice Act of 1987 is amended by
5 changing Sections 22 and 23 as follows:

6 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

7 (Section scheduled to be repealed on December 31, 2008)

8 Sec. 22. Disciplinary action.

9 (A) The Department may revoke, suspend, place on
10 probationary status, refuse to renew, or take any other
11 disciplinary action as the Department may deem proper with
12 regard to the license or visiting professor permit of any
13 person issued under this Act to practice medicine, or to treat
14 human ailments without the use of drugs and without operative
15 surgery upon any of the following grounds:

16 (1) Performance of an elective abortion in any place,
17 locale, facility, or institution other than:

18 (a) a facility licensed pursuant to the Ambulatory
19 Surgical Treatment Center Act;

20 (b) an institution licensed under the Hospital
21 Licensing Act; or

22 (c) an ambulatory surgical treatment center or
23 hospitalization or care facility maintained by the

1 State or any agency thereof, where such department or
2 agency has authority under law to establish and enforce
3 standards for the ambulatory surgical treatment
4 centers, hospitalization, or care facilities under its
5 management and control; or

6 (d) ambulatory surgical treatment centers,
7 hospitalization or care facilities maintained by the
8 Federal Government; or

9 (e) ambulatory surgical treatment centers,
10 hospitalization or care facilities maintained by any
11 university or college established under the laws of
12 this State and supported principally by public funds
13 raised by taxation.

14 (2) Performance of an abortion procedure in a wilful
15 and wanton manner on a woman who was not pregnant at the
16 time the abortion procedure was performed.

17 (3) The conviction of a felony in this or any other
18 jurisdiction, except as otherwise provided in subsection B
19 of this Section, whether or not related to practice under
20 this Act, or the entry of a guilty or nolo contendere plea
21 to a felony charge.

22 (4) Gross negligence in practice under this Act.

23 (5) Engaging in dishonorable, unethical or
24 unprofessional conduct of a character likely to deceive,
25 defraud or harm the public.

26 (6) Obtaining any fee by fraud, deceit, or

1 misrepresentation.

2 (7) Habitual or excessive use or abuse of drugs defined
3 in law as controlled substances, of alcohol, or of any
4 other substances which results in the inability to practice
5 with reasonable judgment, skill or safety.

6 (8) Practicing under a false or, except as provided by
7 law, an assumed name.

8 (9) Fraud or misrepresentation in applying for, or
9 procuring, a license under this Act or in connection with
10 applying for renewal of a license under this Act.

11 (10) Making a false or misleading statement regarding
12 their skill or the efficacy or value of the medicine,
13 treatment, or remedy prescribed by them at their direction
14 in the treatment of any disease or other condition of the
15 body or mind.

16 (11) Allowing another person or organization to use
17 their license, procured under this Act, to practice.

18 (12) Disciplinary action of another state or
19 jurisdiction against a license or other authorization to
20 practice as a medical doctor, doctor of osteopathy, doctor
21 of osteopathic medicine or doctor of chiropractic, a
22 certified copy of the record of the action taken by the
23 other state or jurisdiction being prima facie evidence
24 thereof.

25 (13) Violation of any provision of this Act or of the
26 Medical Practice Act prior to the repeal of that Act, or

1 violation of the rules, or a final administrative action of
2 the Secretary, after consideration of the recommendation
3 of the Disciplinary Board.

4 (14) Dividing with anyone other than physicians with
5 whom the licensee practices in a partnership, Professional
6 Association, limited liability company, or Medical or
7 Professional Corporation any fee, commission, rebate or
8 other form of compensation for any professional services
9 not actually and personally rendered. Nothing contained in
10 this subsection prohibits persons holding valid and
11 current licenses under this Act from practicing medicine in
12 partnership under a partnership agreement, including a
13 limited liability partnership, in a limited liability
14 company under the Limited Liability Company Act, in a
15 corporation authorized by the Medical Corporation Act, as
16 an association authorized by the Professional Association
17 Act, or in a corporation under the Professional Corporation
18 Act or from pooling, sharing, dividing or apportioning the
19 fees and monies received by them or by the partnership,
20 corporation or association in accordance with the
21 partnership agreement or the policies of the Board of
22 Directors of the corporation or association. Nothing
23 contained in this subsection prohibits 2 or more
24 corporations authorized by the Medical Corporation Act,
25 from forming a partnership or joint venture of such
26 corporations, and providing medical, surgical and

1 scientific research and knowledge by employees of these
2 corporations if such employees are licensed under this Act,
3 or from pooling, sharing, dividing, or apportioning the
4 fees and monies received by the partnership or joint
5 venture in accordance with the partnership or joint venture
6 agreement. Nothing contained in this subsection shall
7 abrogate the right of 2 or more persons, holding valid and
8 current licenses under this Act, to each receive adequate
9 compensation for concurrently rendering professional
10 services to a patient and divide a fee; provided, the
11 patient has full knowledge of the division, and, provided,
12 that the division is made in proportion to the services
13 performed and responsibility assumed by each.

14 (15) A finding by the Medical Disciplinary Board that
15 the registrant after having his or her license placed on
16 probationary status or subjected to conditions or
17 restrictions violated the terms of the probation or failed
18 to comply with such terms or conditions.

19 (16) Abandonment of a patient.

20 (17) Prescribing, selling, administering,
21 distributing, giving or self-administering any drug
22 classified as a controlled substance (designated product)
23 or narcotic for other than medically accepted therapeutic
24 purposes.

25 (18) Promotion of the sale of drugs, devices,
26 appliances or goods provided for a patient in such manner

1 as to exploit the patient for financial gain of the
2 physician.

3 (19) Offering, undertaking or agreeing to cure or treat
4 disease by a secret method, procedure, treatment or
5 medicine, or the treating, operating or prescribing for any
6 human condition by a method, means or procedure which the
7 licensee refuses to divulge upon demand of the Department.

8 (20) Immoral conduct in the commission of any act
9 including, but not limited to, commission of an act of
10 sexual misconduct related to the licensee's practice.

11 (21) Wilfully making or filing false records or reports
12 in his or her practice as a physician, including, but not
13 limited to, false records to support claims against the
14 medical assistance program of the Department of Healthcare
15 and Family Services (formerly Department of Public Aid)
16 under the Illinois Public Aid Code.

17 (22) Wilful omission to file or record, or wilfully
18 impeding the filing or recording, or inducing another
19 person to omit to file or record, medical reports as
20 required by law, or wilfully failing to report an instance
21 of suspected abuse or neglect as required by law.

22 (23) Being named as a perpetrator in an indicated
23 report by the Department of Children and Family Services
24 under the Abused and Neglected Child Reporting Act, and
25 upon proof by clear and convincing evidence that the
26 licensee has caused a child to be an abused child or

1 neglected child as defined in the Abused and Neglected
2 Child Reporting Act.

3 (24) Solicitation of professional patronage by any
4 corporation, agents or persons, or profiting from those
5 representing themselves to be agents of the licensee.

6 (25) Gross and wilful and continued overcharging for
7 professional services, including filing false statements
8 for collection of fees for which services are not rendered,
9 including, but not limited to, filing such false statements
10 for collection of monies for services not rendered from the
11 medical assistance program of the Department of Healthcare
12 and Family Services (formerly Department of Public Aid)
13 under the Illinois Public Aid Code.

14 (26) A pattern of practice or other behavior which
15 demonstrates incapacity or incompetence to practice under
16 this Act.

17 (27) Mental illness or disability which results in the
18 inability to practice under this Act with reasonable
19 judgment, skill or safety.

20 (28) Physical illness, including, but not limited to,
21 deterioration through the aging process, or loss of motor
22 skill which results in a physician's inability to practice
23 under this Act with reasonable judgment, skill or safety.

24 (29) Cheating on or attempt to subvert the licensing
25 examinations administered under this Act.

26 (30) Wilfully or negligently violating the

1 confidentiality between physician and patient except as
2 required by law.

3 (31) The use of any false, fraudulent, or deceptive
4 statement in any document connected with practice under
5 this Act.

6 (32) Aiding and abetting an individual not licensed
7 under this Act in the practice of a profession licensed
8 under this Act.

9 (33) Violating state or federal laws or regulations
10 relating to controlled substances, legend drugs, or
11 ephedra, as defined in the Ephedra Prohibition Act.

12 (34) Failure to report to the Department any adverse
13 final action taken against them by another licensing
14 jurisdiction (any other state or any territory of the
15 United States or any foreign state or country), by any peer
16 review body, by any health care institution, by any
17 professional society or association related to practice
18 under this Act, by any governmental agency, by any law
19 enforcement agency, or by any court for acts or conduct
20 similar to acts or conduct which would constitute grounds
21 for action as defined in this Section.

22 (35) Failure to report to the Department surrender of a
23 license or authorization to practice as a medical doctor, a
24 doctor of osteopathy, a doctor of osteopathic medicine, or
25 doctor of chiropractic in another state or jurisdiction, or
26 surrender of membership on any medical staff or in any

1 medical or professional association or society, while
2 under disciplinary investigation by any of those
3 authorities or bodies, for acts or conduct similar to acts
4 or conduct which would constitute grounds for action as
5 defined in this Section.

6 (36) Failure to report to the Department any adverse
7 judgment, settlement, or award arising from a liability
8 claim related to acts or conduct similar to acts or conduct
9 which would constitute grounds for action as defined in
10 this Section.

11 (37) Failure to transfer copies of medical records as
12 required by law.

13 (38) Failure to furnish the Department, its
14 investigators or representatives, relevant information,
15 legally requested by the Department after consultation
16 with the Chief Medical Coordinator or the Deputy Medical
17 Coordinator.

18 (39) Violating the Health Care Worker Self-Referral
19 Act.

20 (40) Intentional failure to comply with ~~Willful~~
21 ~~failure to provide notice when notice is required under~~ the
22 Parental Notice of Abortion Act of 1995.

23 (41) Failure to establish and maintain records of
24 patient care and treatment as required by this law.

25 (42) Entering into an excessive number of written
26 collaborative agreements with licensed advanced practice

1 nurses resulting in an inability to adequately collaborate
2 and provide medical direction.

3 (43) Repeated failure to adequately collaborate with
4 or provide medical direction to a licensed advanced
5 practice nurse.

6 Except for actions involving the ground numbered (26), all
7 proceedings to suspend, revoke, place on probationary status,
8 or take any other disciplinary action as the Department may
9 deem proper, with regard to a license on any of the foregoing
10 grounds, must be commenced within 5 years next after receipt by
11 the Department of a complaint alleging the commission of or
12 notice of the conviction order for any of the acts described
13 herein. Except for the grounds numbered (8), (9), (26), and
14 (29), no action shall be commenced more than 10 years after the
15 date of the incident or act alleged to have violated this
16 Section. For actions involving the ground numbered (26), a
17 pattern of practice or other behavior includes all incidents
18 alleged to be part of the pattern of practice or other behavior
19 that occurred or a report pursuant to Section 23 of this Act
20 received within the 10-year period preceding the filing of the
21 complaint. In the event of the settlement of any claim or cause
22 of action in favor of the claimant or the reduction to final
23 judgment of any civil action in favor of the plaintiff, such
24 claim, cause of action or civil action being grounded on the
25 allegation that a person licensed under this Act was negligent
26 in providing care, the Department shall have an additional

1 period of 2 years from the date of notification to the
2 Department under Section 23 of this Act of such settlement or
3 final judgment in which to investigate and commence formal
4 disciplinary proceedings under Section 36 of this Act, except
5 as otherwise provided by law. The time during which the holder
6 of the license was outside the State of Illinois shall not be
7 included within any period of time limiting the commencement of
8 disciplinary action by the Department.

9 The entry of an order or judgment by any circuit court
10 establishing that any person holding a license under this Act
11 is a person in need of mental treatment operates as a
12 suspension of that license. That person may resume their
13 practice only upon the entry of a Departmental order based upon
14 a finding by the Medical Disciplinary Board that they have been
15 determined to be recovered from mental illness by the court and
16 upon the Disciplinary Board's recommendation that they be
17 permitted to resume their practice.

18 The Department may refuse to issue or take disciplinary
19 action concerning the license of any person who fails to file a
20 return, or to pay the tax, penalty or interest shown in a filed
21 return, or to pay any final assessment of tax, penalty or
22 interest, as required by any tax Act administered by the
23 Illinois Department of Revenue, until such time as the
24 requirements of any such tax Act are satisfied as determined by
25 the Illinois Department of Revenue.

26 The Department, upon the recommendation of the

1 Disciplinary Board, shall adopt rules which set forth standards
2 to be used in determining:

3 (a) when a person will be deemed sufficiently
4 rehabilitated to warrant the public trust;

5 (b) what constitutes dishonorable, unethical or
6 unprofessional conduct of a character likely to deceive,
7 defraud, or harm the public;

8 (c) what constitutes immoral conduct in the commission
9 of any act, including, but not limited to, commission of an
10 act of sexual misconduct related to the licensee's
11 practice; and

12 (d) what constitutes gross negligence in the practice
13 of medicine.

14 However, no such rule shall be admissible into evidence in
15 any civil action except for review of a licensing or other
16 disciplinary action under this Act.

17 In enforcing this Section, the Medical Disciplinary Board,
18 upon a showing of a possible violation, may compel any
19 individual licensed to practice under this Act, or who has
20 applied for licensure or a permit pursuant to this Act, to
21 submit to a mental or physical examination, or both, as
22 required by and at the expense of the Department. The examining
23 physician or physicians shall be those specifically designated
24 by the Disciplinary Board. The Medical Disciplinary Board or
25 the Department may order the examining physician to present
26 testimony concerning this mental or physical examination of the

1 licensee or applicant. No information shall be excluded by
2 reason of any common law or statutory privilege relating to
3 communication between the licensee or applicant and the
4 examining physician. The individual to be examined may have, at
5 his or her own expense, another physician of his or her choice
6 present during all aspects of the examination. Failure of any
7 individual to submit to mental or physical examination, when
8 directed, shall be grounds for suspension of his or her license
9 until such time as the individual submits to the examination if
10 the Disciplinary Board finds, after notice and hearing, that
11 the refusal to submit to the examination was without reasonable
12 cause. If the Disciplinary Board finds a physician unable to
13 practice because of the reasons set forth in this Section, the
14 Disciplinary Board shall require such physician to submit to
15 care, counseling, or treatment by physicians approved or
16 designated by the Disciplinary Board, as a condition for
17 continued, reinstated, or renewed licensure to practice. Any
18 physician, whose license was granted pursuant to Sections 9,
19 17, or 19 of this Act, or, continued, reinstated, renewed,
20 disciplined or supervised, subject to such terms, conditions or
21 restrictions who shall fail to comply with such terms,
22 conditions or restrictions, or to complete a required program
23 of care, counseling, or treatment, as determined by the Chief
24 Medical Coordinator or Deputy Medical Coordinators, shall be
25 referred to the Secretary for a determination as to whether the
26 licensee shall have their license suspended immediately,

1 pending a hearing by the Disciplinary Board. In instances in
2 which the Secretary immediately suspends a license under this
3 Section, a hearing upon such person's license must be convened
4 by the Disciplinary Board within 15 days after such suspension
5 and completed without appreciable delay. The Disciplinary
6 Board shall have the authority to review the subject
7 physician's record of treatment and counseling regarding the
8 impairment, to the extent permitted by applicable federal
9 statutes and regulations safeguarding the confidentiality of
10 medical records.

11 An individual licensed under this Act, affected under this
12 Section, shall be afforded an opportunity to demonstrate to the
13 Disciplinary Board that they can resume practice in compliance
14 with acceptable and prevailing standards under the provisions
15 of their license.

16 The Department may promulgate rules for the imposition of
17 fines in disciplinary cases, not to exceed \$10,000 for each
18 violation of this Act. Fines may be imposed in conjunction with
19 other forms of disciplinary action, but shall not be the
20 exclusive disposition of any disciplinary action arising out of
21 conduct resulting in death or injury to a patient. Any funds
22 collected from such fines shall be deposited in the Medical
23 Disciplinary Fund.

24 (B) The Department shall revoke the license or visiting
25 permit of any person issued under this Act to practice medicine
26 or to treat human ailments without the use of drugs and without

1 operative surgery, who has been convicted a second time of
2 committing any felony under the Illinois Controlled Substances
3 Act or the Methamphetamine Control and Community Protection
4 Act, or who has been convicted a second time of committing a
5 Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois
6 Public Aid Code. A person whose license or visiting permit is
7 revoked under this subsection B of Section 22 of this Act shall
8 be prohibited from practicing medicine or treating human
9 ailments without the use of drugs and without operative
10 surgery.

11 (C) The Medical Disciplinary Board shall recommend to the
12 Department civil penalties and any other appropriate
13 discipline in disciplinary cases when the Board finds that a
14 physician intentionally failed to comply with ~~willfully~~
15 ~~performed an abortion with actual knowledge that the person~~
16 ~~upon whom the abortion has been performed is a minor or an~~
17 ~~incompetent person without notice as required under the~~
18 Parental Notice of Abortion Act of 1995. Upon the Board's
19 recommendation, the Department shall impose, for the first
20 violation, a civil penalty of \$1,000 and for a second or
21 subsequent violation, a civil penalty of \$5,000.

22 (Source: P.A. 94-556, eff. 9-11-05; 94-677, eff. 8-25-05;
23 revised 1-3-07.)

24 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

25 (Section scheduled to be repealed on December 31, 2008)

1 Sec. 23. Reports relating to professional conduct and
2 capacity.

3 (A) Entities required to report.

4 (1) Health care institutions. The chief administrator
5 or executive officer of any health care institution
6 licensed by the Illinois Department of Public Health shall
7 report to the Disciplinary Board when any person's clinical
8 privileges are terminated or are restricted based on a
9 final determination, in accordance with that institution's
10 by-laws or rules and regulations, that a person has either
11 committed an act or acts which may directly threaten
12 patient care, and not of an administrative nature, or that
13 a person may be mentally or physically disabled in such a
14 manner as to endanger patients under that person's care.
15 Such officer also shall report if a person accepts
16 voluntary termination or restriction of clinical
17 privileges in lieu of formal action based upon conduct
18 related directly to patient care and not of an
19 administrative nature, or in lieu of formal action seeking
20 to determine whether a person may be mentally or physically
21 disabled in such a manner as to endanger patients under
22 that person's care. The Medical Disciplinary Board shall,
23 by rule, provide for the reporting to it of all instances
24 in which a person, licensed under this Act, who is impaired
25 by reason of age, drug or alcohol abuse or physical or
26 mental impairment, is under supervision and, where

1 appropriate, is in a program of rehabilitation. Such
2 reports shall be strictly confidential and may be reviewed
3 and considered only by the members of the Disciplinary
4 Board, or by authorized staff as provided by rules of the
5 Disciplinary Board. Provisions shall be made for the
6 periodic report of the status of any such person not less
7 than twice annually in order that the Disciplinary Board
8 shall have current information upon which to determine the
9 status of any such person. Such initial and periodic
10 reports of impaired physicians shall not be considered
11 records within the meaning of The State Records Act and
12 shall be disposed of, following a determination by the
13 Disciplinary Board that such reports are no longer
14 required, in a manner and at such time as the Disciplinary
15 Board shall determine by rule. The filing of such reports
16 shall be construed as the filing of a report for purposes
17 of subsection (C) of this Section.

18 (2) Professional associations. The President or chief
19 executive officer of any association or society, of persons
20 licensed under this Act, operating within this State shall
21 report to the Disciplinary Board when the association or
22 society renders a final determination that a person has
23 committed unprofessional conduct related directly to
24 patient care or that a person may be mentally or physically
25 disabled in such a manner as to endanger patients under
26 that person's care.

1 (3) Professional liability insurers. Every insurance
2 company which offers policies of professional liability
3 insurance to persons licensed under this Act, or any other
4 entity which seeks to indemnify the professional liability
5 of a person licensed under this Act, shall report to the
6 Disciplinary Board the settlement of any claim or cause of
7 action, or final judgment rendered in any cause of action,
8 which alleged negligence in the furnishing of medical care
9 by such licensed person when such settlement or final
10 judgment is in favor of the plaintiff.

11 (4) State's Attorneys. The State's Attorney of each
12 county shall report to the Disciplinary Board all instances
13 in which a person licensed under this Act is convicted or
14 otherwise found guilty of the commission of any felony. The
15 State's Attorney of each county may report to the
16 Disciplinary Board through a verified complaint any
17 instance in which the State's Attorney believes that a
18 physician has intentionally failed to comply with
19 ~~willfully violated the notice requirements of~~ the Parental
20 Notice of Abortion Act of 1995.

21 (5) State agencies. All agencies, boards, commissions,
22 departments, or other instrumentalities of the government
23 of the State of Illinois shall report to the Disciplinary
24 Board any instance arising in connection with the
25 operations of such agency, including the administration of
26 any law by such agency, in which a person licensed under

1 this Act has either committed an act or acts which may be a
2 violation of this Act or which may constitute
3 unprofessional conduct related directly to patient care or
4 which indicates that a person licensed under this Act may
5 be mentally or physically disabled in such a manner as to
6 endanger patients under that person's care.

7 (B) Mandatory reporting. All reports required by items
8 (34), (35), and (36) of subsection (A) of Section 22 and by
9 Section 23 shall be submitted to the Disciplinary Board in a
10 timely fashion. The reports shall be filed in writing within 60
11 days after a determination that a report is required under this
12 Act. All reports shall contain the following information:

13 (1) The name, address and telephone number of the
14 person making the report.

15 (2) The name, address and telephone number of the
16 person who is the subject of the report.

17 (3) The name and date of birth of any patient or
18 patients whose treatment is a subject of the report, if
19 available, or other means of identification if such
20 information is not available, identification of the
21 hospital or other healthcare facility where the care at
22 issue in the report was rendered, provided, however, no
23 medical records may be revealed.

24 (4) A brief description of the facts which gave rise to
25 the issuance of the report, including the dates of any
26 occurrences deemed to necessitate the filing of the report.

1 (5) If court action is involved, the identity of the
2 court in which the action is filed, along with the docket
3 number and date of filing of the action.

4 (6) Any further pertinent information which the
5 reporting party deems to be an aid in the evaluation of the
6 report.

7 The Disciplinary Board or Department may also exercise the
8 power under Section 38 of this Act to subpoena copies of
9 hospital or medical records in mandatory report cases alleging
10 death or permanent bodily injury. Appropriate rules shall be
11 adopted by the Department with the approval of the Disciplinary
12 Board.

13 When the Department has received written reports
14 concerning incidents required to be reported in items (34),
15 (35), and (36) of subsection (A) of Section 22, the licensee's
16 failure to report the incident to the Department under those
17 items shall not be the sole grounds for disciplinary action.

18 Nothing contained in this Section shall act to in any way,
19 waive or modify the confidentiality of medical reports and
20 committee reports to the extent provided by law. Any
21 information reported or disclosed shall be kept for the
22 confidential use of the Disciplinary Board, the Medical
23 Coordinators, the Disciplinary Board's attorneys, the medical
24 investigative staff, and authorized clerical staff, as
25 provided in this Act, and shall be afforded the same status as
26 is provided information concerning medical studies in Part 21

1 of Article VIII of the Code of Civil Procedure, except that the
2 Department may disclose information and documents to a federal,
3 State, or local law enforcement agency pursuant to a subpoena
4 in an ongoing criminal investigation. Furthermore, information
5 and documents disclosed to a federal, State, or local law
6 enforcement agency may be used by that agency only for the
7 investigation and prosecution of a criminal offense.

8 (C) Immunity from prosecution. Any individual or
9 organization acting in good faith, and not in a wilful and
10 wanton manner, in complying with this Act by providing any
11 report or other information to the Disciplinary Board or a peer
12 review committee, or assisting in the investigation or
13 preparation of such information, or by voluntarily reporting to
14 the Disciplinary Board or a peer review committee information
15 regarding alleged errors or negligence by a person licensed
16 under this Act, or by participating in proceedings of the
17 Disciplinary Board or a peer review committee, or by serving as
18 a member of the Disciplinary Board or a peer review committee,
19 shall not, as a result of such actions, be subject to criminal
20 prosecution or civil damages.

21 (D) Indemnification. Members of the Disciplinary Board,
22 the Medical Coordinators, the Disciplinary Board's attorneys,
23 the medical investigative staff, physicians retained under
24 contract to assist and advise the medical coordinators in the
25 investigation, and authorized clerical staff shall be
26 indemnified by the State for any actions occurring within the

1 scope of services on the Disciplinary Board, done in good faith
2 and not wilful and wanton in nature. The Attorney General shall
3 defend all such actions unless he or she determines either that
4 there would be a conflict of interest in such representation or
5 that the actions complained of were not in good faith or were
6 wilful and wanton.

7 Should the Attorney General decline representation, the
8 member shall have the right to employ counsel of his or her
9 choice, whose fees shall be provided by the State, after
10 approval by the Attorney General, unless there is a
11 determination by a court that the member's actions were not in
12 good faith or were wilful and wanton.

13 The member must notify the Attorney General within 7 days
14 of receipt of notice of the initiation of any action involving
15 services of the Disciplinary Board. Failure to so notify the
16 Attorney General shall constitute an absolute waiver of the
17 right to a defense and indemnification.

18 The Attorney General shall determine within 7 days after
19 receiving such notice, whether he or she will undertake to
20 represent the member.

21 (E) Deliberations of Disciplinary Board. Upon the receipt
22 of any report called for by this Act, other than those reports
23 of impaired persons licensed under this Act required pursuant
24 to the rules of the Disciplinary Board, the Disciplinary Board
25 shall notify in writing, by certified mail, the person who is
26 the subject of the report. Such notification shall be made

1 within 30 days of receipt by the Disciplinary Board of the
2 report.

3 The notification shall include a written notice setting
4 forth the person's right to examine the report. Included in
5 such notification shall be the address at which the file is
6 maintained, the name of the custodian of the reports, and the
7 telephone number at which the custodian may be reached. The
8 person who is the subject of the report shall submit a written
9 statement responding, clarifying, adding to, or proposing the
10 amending of the report previously filed. The person who is the
11 subject of the report shall also submit with the written
12 statement any medical records related to the report. The
13 statement and accompanying medical records shall become a
14 permanent part of the file and must be received by the
15 Disciplinary Board no more than 30 days after the date on which
16 the person was notified by the Disciplinary Board of the
17 existence of the original report.

18 The Disciplinary Board shall review all reports received by
19 it, together with any supporting information and responding
20 statements submitted by persons who are the subject of reports.
21 The review by the Disciplinary Board shall be in a timely
22 manner but in no event, shall the Disciplinary Board's initial
23 review of the material contained in each disciplinary file be
24 less than 61 days nor more than 180 days after the receipt of
25 the initial report by the Disciplinary Board.

26 When the Disciplinary Board makes its initial review of the

1 materials contained within its disciplinary files, the
2 Disciplinary Board shall, in writing, make a determination as
3 to whether there are sufficient facts to warrant further
4 investigation or action. Failure to make such determination
5 within the time provided shall be deemed to be a determination
6 that there are not sufficient facts to warrant further
7 investigation or action.

8 Should the Disciplinary Board find that there are not
9 sufficient facts to warrant further investigation, or action,
10 the report shall be accepted for filing and the matter shall be
11 deemed closed and so reported to the Secretary. The Secretary
12 shall then have 30 days to accept the Medical Disciplinary
13 Board's decision or request further investigation. The
14 Secretary shall inform the Board in writing of the decision to
15 request further investigation, including the specific reasons
16 for the decision. The individual or entity filing the original
17 report or complaint and the person who is the subject of the
18 report or complaint shall be notified in writing by the
19 Secretary of any final action on their report or complaint.

20 (F) Summary reports. The Disciplinary Board shall prepare,
21 on a timely basis, but in no event less than one every other
22 month, a summary report of final actions taken upon
23 disciplinary files maintained by the Disciplinary Board. The
24 summary reports shall be sent by the Disciplinary Board to
25 every health care facility licensed by the Illinois Department
26 of Public Health, every professional association and society of

1 persons licensed under this Act functioning on a statewide
2 basis in this State, the American Medical Association, the
3 American Osteopathic Association, the American Chiropractic
4 Association, all insurers providing professional liability
5 insurance to persons licensed under this Act in the State of
6 Illinois, the Federation of State Medical Licensing Boards, and
7 the Illinois Pharmacists Association.

8 (G) Any violation of this Section shall be a Class A
9 misdemeanor.

10 (H) If any such person violates the provisions of this
11 Section an action may be brought in the name of the People of
12 the State of Illinois, through the Attorney General of the
13 State of Illinois, for an order enjoining such violation or for
14 an order enforcing compliance with this Section. Upon filing of
15 a verified petition in such court, the court may issue a
16 temporary restraining order without notice or bond and may
17 preliminarily or permanently enjoin such violation, and if it
18 is established that such person has violated or is violating
19 the injunction, the court may punish the offender for contempt
20 of court. Proceedings under this paragraph shall be in addition
21 to, and not in lieu of, all other remedies and penalties
22 provided for by this Section.

23 (Source: P.A. 94-677, eff. 8-25-05.)

24 Section 5. The Parental Notice of Abortion Act of 1995 is
25 amended by changing Sections 5, 10, 15, 20, 40, 45, 90, and 95

1 and by adding Sections 24, 26, and 46 as follows:

2 (750 ILCS 70/5)

3 Sec. 5. Legislative findings and purpose. The General
4 Assembly finds that involvement of a responsible and caring
5 adult in an unemancipated minor's decision about her pregnancy
6 can facilitate quality decision making. The General Assembly
7 finds that the involvement of an adult family member can help
8 to guide an unemancipated minor in making such healthcare
9 decisions. When circumstances preclude the involvement of an
10 adult family member, it is the intent of this Act to create an
11 alternative procedure that will ensure counseling and guidance
12 as to all of the minor's options relating to the minor's
13 decision about her pregnancy. The General Assembly's purpose in
14 enacting this Act is to further its goal of ensuring quality
15 healthcare for all of its citizens. ~~The General Assembly finds~~
16 ~~that notification of a family member as defined in this Act is~~
17 ~~in the best interest of an unemancipated minor, and the General~~
18 ~~Assembly's purpose in enacting this parental notice law is to~~
19 ~~further and protect the best interests of an unemancipated~~
20 ~~minor.~~

21 ~~The medical, emotional, and psychological consequences of~~
22 ~~abortion are sometimes serious and long-lasting, and immature~~
23 ~~minors often lack the ability to make fully informed choices~~
24 ~~that consider both the immediate and long-range consequences.~~

25 ~~Parental consultation is usually in the best interest of~~

1 ~~the minor and is desirable since the capacity to become~~
2 ~~pregnant and the capacity for mature judgment concerning the~~
3 ~~wisdom of an abortion are not necessarily related.~~

4 (Source: P.A. 89-18, eff. 6-1-95.)

5 (750 ILCS 70/10)

6 Sec. 10. Definitions. As used in this Act:

7 "Abortion" means the use of any instrument, medicine, or
8 drug, or any other substance or device to terminate the
9 pregnancy of a woman known to be pregnant with an intention
10 other than to increase the probability of a live birth, or to
11 preserve the life or health of a child after live birth, ~~or to~~
12 ~~remove a dead fetus.~~

13 "Actual notice" means the giving of notice directly, in
14 person, or by telephone, and not by facsimile, voicemail, or
15 answering machine.

16 "Adult family member" means a person over 18 ~~21~~ years of
17 age who is:

18 (1) the parent of the minor;

19 (2) a step-parent married to and residing with the
20 custodial parent of the minor;

21 (3) a legal guardian of the minor; or

22 (4) a grandparent, aunt, or uncle of the minor. ~~the~~
23 ~~parent, grandparent, step-parent living in the household,~~
24 ~~or legal guardian.~~

25 "Constructive notice" means notice sent by certified mail

1 to the last known address of the person who can receive notice
2 under Section 15 of this Act, ~~entitled to notice~~ with delivery
3 deemed to have occurred 48 hours after the certified notice is
4 mailed.

5 "Counselor" means a person who is an advanced practice
6 nurse licensed under the Nursing and Advanced Practice Nursing
7 Act, a physician licensed under the Medical Practice Act of
8 1987, a clinical psychologist licensed under the Clinical
9 Psychologist Licensing Act, or a clinical social worker
10 licensed under the Clinical Social Work and Social Work
11 Practice Act.

12 ~~"Incompetent" means any person who has been adjudged as~~
13 ~~mentally ill or developmentally disabled and who, because of~~
14 ~~her mental illness or developmental disability, is not fully~~
15 ~~able to manage her person and for whom a guardian of the person~~
16 ~~has been appointed under Section 11a-3(a)(1) of the Probate Act~~
17 ~~of 1975.~~

18 "Medical emergency" means a condition that, on the basis of
19 the physician's good faith clinical judgment, so complicates
20 the medical condition of a pregnant woman as to necessitate the
21 immediate abortion of her pregnancy to avert her death or for
22 which a delay will create serious risk to her health ~~of~~
23 ~~substantial and irreversible impairment of major bodily~~
24 ~~function.~~

25 "Minor" means any person under 18 years of age who is not
26 or has not been married or who has not been emancipated under

1 the Emancipation of ~~Mature~~ Minors Act.

2 ~~"Neglect" means the failure of an adult family member to~~
3 ~~supply a child with necessary food, clothing, shelter, or~~
4 ~~medical care when reasonably able to do so or the failure to~~
5 ~~protect a child from conditions or actions that imminently and~~
6 ~~seriously endanger the child's physical or mental health when~~
7 ~~reasonably able to do so.~~

8 "Physical abuse" means any physical injury intentionally
9 inflicted by an adult family member on a child.

10 "Physician" means any person licensed to practice medicine
11 in all its branches under the ~~Illinois~~ Medical Practice Act of
12 1987.

13 "Sexual abuse" means any sexual conduct or sexual
14 penetration as defined in Section 12-12 of the Criminal Code of
15 1961 that is prohibited by the criminal laws of the State of
16 Illinois and committed against a minor by an adult family
17 member as defined in this Act.

18 (Source: P.A. 89-18, eff. 6-1-95; revised 10-9-03.)

19 (750 ILCS 70/15)

20 Sec. 15. Prohibitions ~~Notice to adult family member.~~ No
21 person shall intentionally perform an abortion upon a minor
22 unless the person or his or her agent has given at least 48
23 hours' actual notice to an adult family member of the pregnant
24 minor of his or her intention to perform the abortion, unless
25 that person or his or her agent has received a written

1 statement by a referring physician certifying that the
2 referring physician or his or her agent has given at least 48
3 hours' notice to an adult family member of the pregnant minor.
4 If actual notice is not possible based on reasonable efforts by
5 the person seeking to perform the abortion, or his or her
6 agent, within one day, that person or his or her agent must
7 give 48 hours' constructive notice. ~~No person shall knowingly~~
8 ~~perform an abortion upon a minor or upon an incompetent person~~
9 ~~unless the physician or his or her agent has given at least 48~~
10 ~~hours actual notice to an adult family member of the pregnant~~
11 ~~minor or incompetent person of his or her intention to perform~~
12 ~~the abortion, unless that person or his or her agent has~~
13 ~~received a written statement by a referring physician~~
14 ~~certifying that the referring physician or his or her agent has~~
15 ~~given at least 48 hours notice to an adult family member of the~~
16 ~~pregnant minor or incompetent person. If actual notice is not~~
17 ~~possible after a reasonable effort, the physician or his or her~~
18 ~~agent must give 48 hours constructive notice.~~

19 (Source: P.A. 89-18, eff. 6-1-95.)

20 (750 ILCS 70/20)

21 Sec. 20. Exceptions. Notice shall not be required under
22 this Act if:

23 (1) at the time the abortion is performed, the minor ~~or~~
24 ~~incompetent person~~ is accompanied by a person who can
25 receive ~~entitled to~~ notice under Section 15 of this Act; or

1 (2) notice under this Act is waived in writing by a
2 person who can receive ~~is entitled to~~ notice under Section
3 15 of this Act; or

4 (3) the attending physician certifies in the patient's
5 medical record that a medical emergency exists and there is
6 insufficient time to provide the required notice; or

7 (4) the minor declares in writing to the physician or
8 to an agent of the physician that she is a victim of sexual
9 ~~abuse, neglect,~~ or physical abuse by an adult family
10 member, as defined in this Act, in which case: (i) the ~~The~~
11 attending physician must certify in the patient's medical
12 record that he or she has received the ~~written~~ declaration
13 of abuse, (ii) any ~~or neglect. Any~~ notification of public
14 authorities of abuse that may be required under other laws
15 of this State need not be made ~~by the person performing the~~
16 ~~abortion~~ until after the minor receives an abortion that
17 otherwise complies with the requirements of this Act, and
18 (iii) the Department of Children and Family Services shall,
19 pursuant to Section 7.19 of the Abused and Neglected Child
20 Reporting Act, prohibit the release of any information or
21 data that would identify or locate the person who made the
22 report of abuse, or that in any way would reveal the
23 minor's abortion choice; or

24 (5) notice under this Act is waived by the minor
25 participating in an information and counseling session as
26 set forth in ~~under~~ Section 24; or ~~25~~.

1 (6) notice is waived under Section 26.

2 (Source: P.A. 89-18, eff. 6-1-95.)

3 (750 ILCS 70/24 new)

4 Sec. 24. Information and counseling for minors.

5 (a) The provision of information and counseling by a
6 counselor for any pregnant minor for decision making regarding
7 pregnancy shall be in accordance with this Section.

8 (b) Any counselor providing pregnancy information and
9 counseling under this Section shall, in a manner designed to be
10 clear and understandable to the minor:

11 (1) explain that the information being given to the
12 minor is being given objectively and is not intended to
13 coerce, persuade, or induce the minor to choose either to
14 have an abortion or to carry the pregnancy to term;

15 (2) discuss the possibility of involving the minor's
16 parents, guardian, or other adult family members in the
17 minor's decision making concerning the pregnancy and
18 explore whether the minor believes that involvement would
19 be in the minor's best interest;

20 (3) clearly and fully explore with the minor the
21 alternative choices available for managing the pregnancy;

22 (4) explain that the minor may withdraw a decision to
23 have an abortion at any time before the abortion is
24 performed and may reconsider a decision not to have an
25 abortion at any time within the time period during which an

1 abortion may legally be performed; and

2 (5) provide adequate opportunity for the minor to ask
3 any questions concerning the pregnancy, abortion, child
4 care, and adoption, and provide the information the minor
5 seeks or, if the counselor cannot provide the information,
6 indicate where the minor can receive the information.

7 (c) After the counselor provides the information and
8 counseling to a minor as required by this Section, that person
9 shall have the minor sign and date a form stating that:

10 (1) the minor has received information on prenatal care
11 and alternatives to abortion and that there are agencies
12 that will provide assistance;

13 (2) the counselor has discussed with the minor the
14 possibility of involving the minor's parents, guardian, or
15 other adult family members in the minor's decision making
16 about the pregnancy;

17 (3) the minor has received an explanation that the
18 minor may withdraw an abortion decision or reconsider a
19 decision to carry a pregnancy to term;

20 (4) the alternatives available for managing the
21 pregnancy have been clearly and fully explored with the
22 minor;

23 (5) the minor has received an explanation about
24 agencies available to provide birth control information;
25 and

26 (6) the minor has been given an adequate opportunity to

1 ask questions.

2 The counselor providing the information and counseling
3 shall also sign and date the form and include the counselor's
4 address and telephone number. The counselor shall retain a copy
5 in his or her files and shall give the form to the minor or, if
6 the minor requests and if the counselor providing information
7 and counseling is not the attending physician, transmit the
8 form to the minor's attending physician.

9 The counselor providing information and counseling
10 pursuant to this Section shall have no current actual financial
11 relationship with the healthcare provider who will perform the
12 minor's abortion, and such information and counseling shall not
13 be provided in the facility in which the minor's abortion shall
14 be performed.

15 (750 ILCS 70/26 new)

16 Sec. 26. Procedure for judicial waiver of notice.

17 (a) The requirements and procedures under this Section are
18 available to minors whether or not they are residents of this
19 State.

20 (b) The minor may petition any circuit court for a waiver
21 of the notice requirement and may participate in proceedings on
22 her own behalf. The circuit court shall immediately advise the
23 minor that she has a right to court-appointed counsel and shall
24 provide her with counsel upon her request. The court shall
25 appoint a guardian ad litem for the minor. Any guardian ad

1 litem appointed under this Act shall act in the best interest
2 of the minor and shall take all steps necessary to maintain the
3 absolute confidentiality of the proceedings.

4 (c) Court proceedings under this Section shall be
5 confidential and shall ensure the anonymity of the minor. The
6 minor shall have the right to file her petition in the circuit
7 court using a pseudonym or using solely her initials. All
8 documents filed with or prepared by the court in connection
9 with the minor's petition shall be maintained under seal. All
10 documents related to the minor's petition shall be confidential
11 and shall not be made available to the public. All circuit
12 courts shall establish procedures that will ensure that all
13 communications between a minor seeking to file, or having
14 filed, a petition under this Section and the circuit court
15 clerk's office are conducted confidentially. Such procedures
16 shall include designation of a member of the clerk's office
17 staff who will conduct all communication with the minor, a
18 designated telephone line for contact with such minors, and a
19 private space within the clerk's office for communications
20 between the minor and designated personnel. All court
21 personnel, including clerk's office staff, shall take all steps
22 necessary to maintain absolute confidentiality in connection
23 with the minor's petition. Court personnel are prohibited from
24 disclosing any information about the minor or her petition to
25 any member of the public or to other court personnel unless
26 disclosure to such personnel is essential to the resolution of

1 the minor's petition. All proceedings relating to the minor's
2 petition shall be closed to the public, with entry permitted
3 only to the minor, or any person she asks to be present, the
4 minor's counsel, the guardian ad litem, the circuit court judge
5 and other essential courtroom personnel. These proceedings
6 shall be given precedence over other pending matters to the
7 extent necessary to ensure that the court reaches a prompt
8 decision. Any hearing on the minor's petition must be held and
9 a ruling issued within 48 hours of the time that the petition
10 is filed, except that the 48 hour limitation may be extended at
11 the request of the minor. The court shall issue its ruling
12 along with findings of fact and conclusions of law at the
13 conclusion of any hearing on the minor's petition. Such
14 findings and conclusions shall be memorialized in a certified,
15 confidential transcript of the proceedings. A court that
16 conducts proceedings under this Section shall order that a
17 confidential record of the evidence and the court's findings
18 and conclusions be maintained. If the court fails to rule
19 within 48 hours of the time that the petition was filed, and
20 the minor has not requested an extension, the petition shall be
21 deemed to have been granted, and the notice requirement shall
22 be waived. In such case, the clerk's office shall provide the
23 minor with an official certification of waiver of notice. If
24 the court denies the minor's petition, it shall, at the time of
25 such denial, inform the minor of her right to pursue an appeal
26 from the denial of her petition and the steps she must take to

1 pursue such appeal. In addition, such steps shall be set forth
2 in detail on the back of the court's order denying the minor's
3 petition.

4 (d) Notice shall be waived if the court finds by a
5 preponderance of the evidence either:

6 (1) that the minor is sufficiently mature and well
7 enough informed to decide intelligently whether to have an
8 abortion; or

9 (2) that notification under Section 15 of this Act
10 would not be in the best interests of the minor.

11 (e) In the event that the court finds that the minor has
12 met either of the standards for waiver of notice set forth in
13 subsection (d), the court shall enter an order permitting a
14 qualified medical professional to perform an abortion on the
15 minor without giving notice under this Act and setting forth
16 that the minor may legally consent to the abortion procedure.

17 (f) An expedited confidential appeal shall be available, as
18 set forth in Illinois Supreme Court Rule 303A, to any minor to
19 whom the circuit court denies a waiver of notice. An order
20 authorizing an abortion without notice shall not be subject to
21 appeal.

22 (g) No fees shall be required of any minor who avails
23 herself of the procedures provided by this Section.

24 (750 ILCS 70/40)

25 Sec. 40. Penalties.

1 (a) ~~A Any~~ physician who intentionally ~~willfully~~ fails to
2 comply with ~~provide notice as required under~~ this Act may
3 ~~before performing an abortion on a minor or an incompetent~~
4 ~~person shall~~ be referred to the Illinois State Medical
5 Disciplinary Board for appropriate action ~~in accordance with~~
6 ~~Section 22 of the Medical Practice Act of 1987.~~

7 (b) ~~A Any~~ person, not authorized under this Act, who signs
8 any waiver of notice for a minor ~~or incompetent person~~ seeking
9 an abortion, is guilty of a Class C misdemeanor.

10 (c) A person who discloses confidential information
11 obtained in the context of counseling under Section 24 of this
12 Act is guilty of a Class C misdemeanor.

13 (Source: P.A. 89-18, eff. 6-1-95.)

14 (750 ILCS 70/45)

15 Sec. 45. Immunity. ~~A Any~~ physician who, in good faith,
16 provides notice in accordance with Section 15 or relies on an
17 exception under Section 20 shall not be subject to any type of
18 civil or criminal liability or discipline for unprofessional
19 conduct for failure to give ~~required~~ notice required under this
20 Act. A counselor who in good faith provides information and
21 counseling to a minor pursuant to Section 24 shall not be
22 subject to any type of civil or criminal liability or
23 discipline for unprofessional conduct for any of his or her
24 actions in connection with providing such counseling and
25 information. The immunity in this Section does not apply to

1 willful or wanton conduct.

2 (Source: P.A. 89-18, eff. 6-1-95.)

3 (750 ILCS 70/46 new)

4 Sec. 46. Right of conscience. No provision of this Act
5 impairs a physician, counselor, or other healthcare
6 professional's rights under the Health Care Right of Conscience
7 Act and the Abortion Performance Refusal Act.

8 (750 ILCS 70/90)

9 Sec. 90. The Illinois Abortion Parental Consent Act of
10 1977, which was repealed by Public Act 89-18, is again
11 repealed.

12 (Source: P.A. 89-18, eff. 6-1-95.)

13 (750 ILCS 70/95)

14 Sec. 95. The Parental Notice of Abortion Act of 1983, which
15 was repealed by Public Act 89-18, is again repealed.

16 (Source: P.A. 89-18, eff. 6-1-95.)

17 (750 ILCS 70/25 rep.)

18 (750 ILCS 70/50 rep.)

19 Section 10. The Parental Notice of Abortion Act of 1995 is
20 amended by repealing Sections 25 and 50.